

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING THE
SETTLEMENT OF THE CLAIM OF MARY
JEFFERSON IN THE AMOUNT OF \$4,907.00
AGAINST THE CITY OF ATLANTA
ARISING FROM SEVERAL SEWER BACK
UPS.**

00-*R*-1723

WHEREAS, MARY JEFFERSON has filed a claim against the City of Atlanta seeking damages arising out of several sanitary sewer back ups to her property located at 2369 Colorado Trail, SW, Atlanta, Georgia; and

WHEREAS, property owned by MARY JEFFERSON has been damaged due to sewer back ups and sewer overflows due to the blockage of the mainline. This continuous blockage was due to an accumulation of grease, sludge and roots which the City had knowledge of prior to the back up which occurred in February, 1998 specifically; and

WHEREAS, the City of Atlanta was on notice of said nuisance and made an attempt, however unsuccessful, to abate said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of \$4,907.00 and has agreed to accept this sum in full and complete satisfaction and settlement of her claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of MARY JEFFERSON, be settled for the sum of \$4,907.00.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$4,907.00 be paid by the City of Atlanta to MARY JEFFERSON, in satisfaction of any and all claims she may have stemming from damages sustained to her property on or about December 10, 1997 through February, 1998, at 2369 Colorado Trail, SW, and that the City Attorney prepare appropriate releases.

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 98L0143

Date: October 20, 2000

Claimant/Victim MARY JEFFERSON
 BY: (Atty) (Ins. Co.) _____
 Address: 2369 Colorado Trail, SW, Atlanta, Georgia 30331
 Subrogation: _____ Claim for Property damage \$ 4,907.00 Bodily Injury \$ _____
 Date of Notice: 2/19/98 Method: Written, Proper X Improper _____
 Conforms to Notice: O.C.G.A. §36-33-5 _____ X Ante Litem (6 Mo.) _____ X
 Date of Occurrence 12/10/97 - 2/98 Place: 2369 Colorado Trail, SW
 Department PUBLIC WORKS Division Sewer Operations
 Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimant sustained property damages to her residence from several continuous sanitary sewer back ups. An investigation determined that the City was on notice of said sewer problem at this location but failed to timely identify the problem and correct it.


INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____
 Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other _____
 Traffic citations issued: City Driver _____ Claimant Driver _____
 Citation disposition: City Driver _____ Claimant Driver _____


BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____
 Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable X
 City not involved _____ Offer rejected _____ Compromise settlement _____
 Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
 Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,


 INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 4,907.00 Adverse _____ Account charged: 1A01 _____ 2J01 X 2H01 _____
 Claims Manager:  Concur/date 10-20-00
 Committee Action: _____ Council Action _____

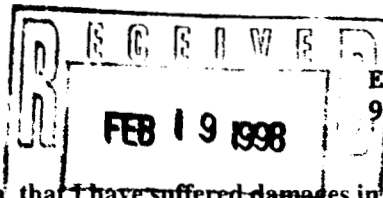
COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

OATIS
02-2348

Today's Date: 2/13/98

Dear Municipal Clerk:



ENTERED - 3-9-98 - SB
98L0143 - ANTHONY OATIS

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 800.00 property and/or \$ _____ bodily injury for which I contend the City is liable.

1. Date of incident: 12-10-97 Thu. 2/1/98 2. Time of Incident: 5:00 p.m. 3. Police called: ✓
* Problem is still (month/day/year). going on. Yes No

4. Location of incident (including street address): 2369 Colorado Trail, S.W. ATL, GA 30331

5. Name of your insurance company: ~~Kemper~~ Keeper Insurance Policy No. UP782629

6. State what and how incident occurred: LOSS
Our loss is the spending of money to eliminate a problem that was a city problem and a ruined shower, Toilet and stained carpet. How loss occurred: We notified the city 12-10-97 of sewage back-up into our home after Harold Plumbing Services suggested a means to eliminate the problem after running 140' of cable through our main line, but informed us that the problem was with the city's lines. The city came out repeatedly but did not eliminate the problem nor did they locate our back up with the city. Because my husband and I are disabled, 3 minors kids in the home, nowhere else to live, sewage back up and the terrible smell in our home, we were forced to call another service. Roto Rooter came out 1-15-98

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

and ran 130' of cable and installed a clean out but the problem continued because again we were informed that it is a city's problem. Again the city came out 12-17-98
8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).
and being finally where we connected with the city's line, dug and found that there were busted pipes at the street. As of today, our yard is still a mess.

Your vehicle: _____
(Make) (Year) (Tag Number) (Driver's Name)
If the city had found the lines, I was told they should have known by Mr. Callahan.
City vehicle: my would have known the problem and we would not have the loss.
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: _____
(Name) (Address) (Telephone Number)

10. The acknowledgement of this claim in no way waives the sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and / or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

[Signature]
Signature of Claimant

Mary Jefferson
(Print Claimant's Name)

2369 Colorado Trail, S.W.
(Address)

Atlanta, Georgia 30331
(City, State and Zip Code)

404-344-0834
(Work Number) (Home Number)

GENERAL RELEASE AND INDEMNIFICATION

CLAIM NUMBER 98L0143


\$ 4,907.00

IN CONSIDERATION of the sum of FOUR THOUSAND NINE HUNDRED SEVEN DOLLARS AND NO/100 DOLLARS, to be paid by the CITY OF ATLANTA, the future receipt of which is hereby acknowledged, I do hereby, for myself, my heirs, executors, administrators, and assigns, release and forever discharge said City, its officers and employees, demands, actions, causes of action, suits, damages, loss and expenses, of whatsoever kind or nature for or on account of anything that has heretofore occurred, and particularly for or on account of several property damage incidents - sewer back ups which occurred on or about the 10th day of December, 1997 through February, 1998, at or near 2369 Colorado Trail, SW.

It is further understood and agreed that the payment of the above named sum is not to be considered as an admission on the part of the City, its officers, agents, servants or employees, of any liability whatsoever and the undersigned further covenants and agrees to indemnify and hold harmless the City of Atlanta, its officers, agents, servants and employees, from any and all claims, damages or costs which the said City of Atlanta, its officers, agents, servants and employees, may be called upon to make as a result of the event hereinbefore referred to.

And I now state that the only consideration for my signing this release and indemnification is the payment of the sum stated above; that no other promise or agreement of any kind or nature has been made to or with me by said City or its agents to cause me to sign this release, and that I fully understand the meaning and intent of this instrument.

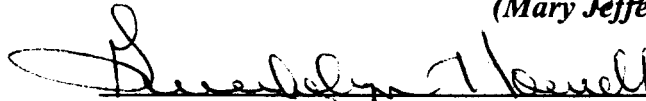
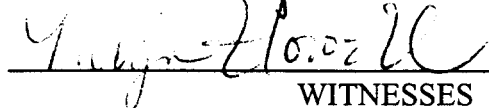
WITNESS my hand and seal this 18th day of October, 2000.



MARY JEFFERSON (LS)

(LS)

The above release was read and explained to, and signed by the said Mary Jefferson in our presence on the date above written.
(Mary Jefferson)

WITNESSES